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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 **FREDERICK WILLIAMS,**

12 **Petitioner,**

13 **v.**

14 **TUOLUMNE COUNTY COURT,**

15 **Respondent.**

Case No. 1:20-cv-00082-SAB-HC

**FINDINGS AND RECOMMENDATION TO
DISMISS PETITION FOR WRIT OF
HABEAS CORPUS**

**ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN DISTRICT
JUDGE**

16
17 Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus
18 pursuant to 28 U.S.C. § 2254.

19 **I.**

20 **DISCUSSION**

21 Rule 4 of the Rules Governing Section 2254 Cases requires preliminary review of a
22 habeas petition and allows a district court to dismiss a petition before the respondent is ordered
23 to file a response, if it “plainly appears from the petition and any attached exhibits that the
24 petitioner is not entitled to relief in the district court.” See McFarland v. Scott, 512 U.S. 849, 856
25 (1994).

26 By statute, federal courts “shall entertain an application for a writ of habeas corpus in
27 behalf of a person in custody pursuant to the judgment of a State court only on the ground that he
28 is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C.

1 § 2254(a). “[T]he second use of ‘in custody’ in the statute requires literally that the person
2 applying for the writ is contending that he is ‘in custody’ in violation of *the Constitution or other*
3 *federal laws*.” Bailey v. Hill, 599 F.3d 976, 979 (9th Cir. 2010) (emphasis added). See Dickerson
4 v. United States, 530 U.S. 428, 439 n.3 (2000).

5 In the instant petition, Petitioner asserts that his sentence violates current California
6 sentencing law, as amended by Senate Bill 1393. (ECF No. 1 at 5–6).¹ Petitioner asks this Court
7 “to modify his sentence under the current sentencing law.” (Id. at 5). This Court does not have
8 jurisdiction to modify Petitioner’s sentence. Whether Petitioner’s sentence is lawful under the
9 California Penal Code is an issue of state law, and errors of state law do not warrant federal
10 habeas corpus relief.² See Wilson v. Corcoran, 562 U.S. 1, 5 (2010) (per curiam) (“[I]t is only
11 noncompliance with federal law that renders a State’s criminal judgment susceptible to collateral
12 attack in the federal courts.”); Estelle v. McGuire, 502 U.S. 62, 67–68 (1991) (“We have stated
13 many times that ‘federal habeas corpus relief does not lie for errors of state law.’ Today, we
14 reemphasize that it is not the province of a federal habeas court to reexamine state-court
15 determinations on state-law questions.” (citations omitted)).

16 II.

17 RECOMMENDATION & ORDER

18 Accordingly, the undersigned HEREBY RECOMMENDS that the petition for writ of
19 habeas corpus be DISMISSED for failure to state a cognizable federal habeas claim.

20 Further, the Clerk of Court is DIRECTED to randomly ASSIGN this action to a District
21 Judge.

22 This Findings and Recommendation is submitted to the assigned United States District
23 Court Judge, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local
24 Rules of Practice for the United States District Court, Eastern District of California. Within
25 **THIRTY (30) days** after service of the Findings and Recommendation, Petitioner may file
26 written objections with the court and serve a copy on all parties. Such a document should be
27 _____

28 ¹ Page numbers refer to the ECF page numbers stamped at the top of the page.

² This conclusion does not prevent Petitioner from presenting his claim to the California state courts.

1 captioned “Objections to Magistrate Judge’s Findings and Recommendation.” The assigned
2 United States District Court Judge will then review the Magistrate Judge’s ruling pursuant to 28
3 U.S.C. § 636(b)(1)(C). The parties are advised that failure to file objections within the specified
4 time may waive the right to appeal the District Court’s order. Wilkerson v. Wheeler, 772 F.3d
5 834, 839 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

6
7 IT IS SO ORDERED.

8 Dated: **January 30, 2020**


UNITED STATES MAGISTRATE JUDGE